REMARKS/ARGUMENTS

Status:

In the last Office Action:

- Claims 1, 5, 6, 7, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto.
- Claims 12-16 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to the claims above, and further in view of Cartes.
- Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to the claims above, and further in view of Hall.
- Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickinger in view of Del Sesto as applied to claim 9 above, and further in view of Chen.

In response to the argument in a prior response regarding the term "application identifier", the Office Action alleges that "an 'application identifier' is not a strictly defined term in the art, the examiner is using a broad interpretation of this term. . . and using a broad interpretation of the claim, this meets the limitation." (Office Action dated 1/09/2008, p. 2-3.)

Examiner Interview

Applicant is providing in a separate document filed contemporaneously with the response, a summary of the telephonic interview which occurred on February 12, 2008. Applicant appreciates the time that the Examiner and his Supervisor provided to focusing the issues so as to advance prosecution of the application.

Discussion

All the claims are rejected in part using Flickinger. The three independent claims in the application, claims 1, 9, and 19, were rejected by Flickinger in view of Del Sesto (claims 1 and 9) and by Flickinger in view of Del Sesto in view of Carles (claim 19). In all three instances, Flickinger was held to disclose the limitation of "an application identifier identifying an application."

During the interview, the Examiner indicated a broad interpretation of the limitation "application," which encompassed operations performed by an application software program, as opposed to the application software program itself. Thus, the Office Action states that "Flickinger (paragraph 56) discloses a system where the meta-data is used to instruct the STB to perform a specific action depending on the application." (Id. p. 4.)

Applicant submits that the term "application" is a well defined term of art in the area of computer programming, which is one of the areas which the present invention pertains to. In computer programming, an "application" is a "software program consisting of one or more processes and supporting functions." (IEEE Dictionary, p. 46). Another definition is "a computer program that performs some desired function." (Id.). Microsoft's Computer Dictionary defines it as "a program designed to assist in the performance of a specific task…" (Computer Dictionary, p. 31). A copy of the representative pages and cover of the IEEE Dictionary and the MicroSoft Computer Dictionary is attached as Exhibit 1 and 2 respectively. In all instances, an "application" is defined as "computer program" or just "program" in the context of computer programming.

Applicant submits that the plain meaning of an "application identifier" is an identifier that identifies a particular application, as defined above. During the Telephonic Interview, the Examiner accorded a different meaning, and based on that meaning, held that the prior art met this limitation of the claim. Although it is not stated in the Office Action, it is the Applicant's understanding from the Telephonic Interview and from the citation from the Office Action, that the Examiner interpreted "application identifier" to encompass data which indicates to a program what action to perform. Thus, the following disclosure of Flinckinger (par. 56) was held to

disclose an "application identifier":

> The ad tag or vector can be detected by the STB 200 to determine whether or not to store the ad and when and how to display the ad. Such determination can be accomplished in a number of ways depending on the application. If the tag is a simple identifier (of the ad or the ad group to which it belongs) and is sent with the ad, the STB 200 could examine the tag at the moment the advertisement is received and either save it or ignore it based upon the instructions/rules preprogrammed into the STBs 200 ad map.

Applicant submits that the interpretation accorded by the Examiner to the term is not consistent with the plain meaning of the term as used in the art. Nevertheless, Applicant is amending the claims to recite "application program", which is consistent with the various definitions provided above, and should clarify the scope of the term to the Examiner.

Applicant submits that with this amendment, the scope of the term "application program" cannot be viewed as data used by a program, because that would read out any distinction between the two (i.e., "data" used by a "program" requires that the data must be separate from the program). Thus, the limitation "application identifier" identifies an "application program," and Applicant submits that with the amendments to the claims, Flickinger does not disclose the limitation.

Applicant has amended the independent claims 1, 9, and 19 consistent with above, and has also amended various dependent claims as necessary.

Applicant submits that with this amendment, claims 1, 9, and 19 can now longer be alleged to be obvious in light of the prior art, and that prosecution on the present claims can be drawn to a close. Applicant respectfully requests that the rejection be withdrawn, and that the claims be allowed. Should there be any minor issues precluding allowance, the Examiner is requested to telephone the Applicant, as indicate below, so as to expedite allowance.

CONCLUSION

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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